

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

JOSEPH W. VANBUSKIRK,)
Petitioner,)
v.) **Case No. CIV 21-382-RAW-KEW**
SCOTT NUNN, Warden,)
Respondent.)

OPINION AND ORDER

This matter is before the Court on Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On May 12, 2022, Respondent filed a Suggestion of Death, notifying the Court of Petitioner's death on May 5, 2022, while in the custody of the Oklahoma Department of Corrections (DOC) (Dkt. 12). In support of his pleading, Respondent has attached an Interoffice Memorandum to the DOC Director from the Medical Services Administrator, advising of Petitioner's death (Dkt. 12-1).

A pending Section 2254 habeas petition does not survive the petitioner's death. *Towns v. Martin*, No. CIV-12-1062-D, 2013 WL 1501610, at *1 (W.D. Okla. Mar. 20, 2013) (unpublished report and recommendation), *adopted by district court*, 2013 WL 1501607 (Apr. 11, 2013). *See also Knapp v. Baker*, 509 F.2d 922, 922-23 (5th Cir. 1975) (holding that the death of the petitioner in a pending habeas corpus action renders the case moot). The Court, therefore, finds this action should be denied at moot.

ACCORDINGLY, Petitioner's petition for a writ of habeas corpus (Dkt. 1) is DENIED as moot.

IT IS SO ORDERED this 23rd day of January, 2023.



Ronald A. White
United States District Judge
Eastern District of Oklahoma